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Letter dated 19 January 2004 from the Permanent Representative of Myanmar to the United Nations addressed to the President of the Security Council

I have the honour to draw your kind attention to paragraph 56 and annex II of the fourth report of the Secretary-General to the Security Council (A/58/546-S/2003/1053) dated 10 November 2003, on children and armed conflict.

With regard to Myanmar, the report listed Tatmadaw Kyi (government army) in annex II, entitled "Other parties to armed conflict that recruit or use children in armed conflict". The inclusion of Myanmar in the report is the end result of a disinformation campaign intended to discredit the Myanmar Armed Forces at a time when the Government is promoting all-round development, peace and stability in the country. It may be further recalled that the inclusion of the Myanmar Armed Forces in the report is a consequence of an unsubstantiated allegation published by Human Rights Watch, a non-governmental organization, which arrives at the surprising figure of 70,000 child soldiers in the Myanmar Armed Forces on the basis of interviews with 20 or so military deserters of dubious credibility living in a neighbouring country.

The Myanmar Armed Forces is an all-volunteer force, and those entering military service do so of their own free will. A person can enlist in the armed forces only on attainment of the age of 18. There is neither a draft system nor forced conscription by the Government of Myanmar. Forced conscription in any form is strictly prohibited throughout the country. For those who were found to have disobeyed the orders, action had been taken under military law.

In this regard I wish to stress that Myanmar has established domestic legal legislation to prevent recruitment of child soldiers under the Myanmar Defence Services Act of 1947. The War Office Council's Instruction No. 13/73, dated 3 January 1974, unambiguously stipulated that the new recruits into military service must attain the age of 18 and not exceed the age of 25. In order to enforce the voluntary nature of recruitment as well as the age requirement, the Office of the Adjutant General, Ministry of Defence, has periodically issued instructions, some of which are cited below:

(a) The Office of the Adjutant General, in its Circular No. 131/Ye 1 (Ka), dated 2 November 1993, once again issued instruction that the age qualification of 18 to 25 years must be strictly adhered to in recruiting soldiers into military service;

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(b) The Office of the Adjutant General, in its Circular No. 1/131 Ye 1 (Ka), dated 2 October 1997, prohibiting forced recruitment, explicitly stipulated the following:

- Not to recruit persons who do not wish to enter military service voluntarily
- To verify that new recruits entering military service do so voluntarily before handing them over to relevant recruiting units
- If any new recruit is found to have been recruited against his will, he must be returned to his guardian
- To forbid forced recruitment, maltreatment of recruits and recruitment to obtain monetary benefits. To take appropriate actions that are commensurate with the gravity of the offence against offenders who contravene these instructions

(c) The Office of the Adjutant General, in its Circular No. 131/Ye 1 (Kha), dated 5 April 2000, concerning the recruitment of qualified new soldiers, once again emphasized the age requirements for new recruitment as between 18 and 25 years. It reiterated the instruction not to recruit those who are either under age or do not wish to join voluntarily;

(d) The Office of the Adjutant General, in its Circular No. 131/Ye 1 (Kha), dated 25 April 2000, in reiterating 18 years as the minimum age qualification for recruitment in accordance with War Office Council Instruction No. 13/73, instructed that under-age persons must not be accepted as new recruits and if under-age recruits were found in the basic training courses for new soldiers, the recruiter and/or those who were responsible for selecting the recruits would be punished according to military rules and regulations;

(e) The Office of the Adjutant General, in its Circular No. 8/6951/Ye 6 (Ga), dated 29 July 2002, regarding supervision of recruitment of qualified personnel for the military service, again emphasized the prohibition of forced recruitment and that if forced recruits, under-age, unqualified or undesirable recruits were found to be in the military service, those responsible for recruitments at various levels would not only be severely punished but would also be liable to compensate for all costs incurred for such recruits.

The Government has instituted measures for close scrutiny and inspection to ensure that those recruited into military service fulfil the voluntary nature of recruitment as well as the minimum age requirement and other qualifications. As a result of the process, a total of 473 military personnel were demobilized in 2002, and another 237 military personnel were demobilized in 2003. In addition, those measures resulted in a total of 1,766 applicants who were prevented from being recruited into military service in 2003.

Ignoring this sound legislative base as well as practical measures prohibiting the recruitment and use of child soldiers in our country, the report of the Secretary-General on children and armed conflict reported in paragraph 56 on the progress made by Myanmar as follows:

> "In Myanmar, children continue to be forcibly recruited by government armed forces and armed groups. The United Nations has documented cases of child soldiers fleeing Myanmar into Thailand. My Special Representative for

Children and Armed Conflict had planned to visit Myanmar early in 2003; however, this had to be postponed owing to developments in the country. The situation remains unchanged since my previous report, in which I cited the findings of Human Rights Watch (S/2002/1299, para. 42)".

In Myanmar insurgent armed groups have widely practised forced recruitment, as testified to by the Special Rapporteur on human rights in his report. The report of the Secretary-General, in lumping together the government armed forces with other armed groups, completely ignores the serious efforts by the Government to ensure the voluntary nature of recruitment. It also failed to differentiate whether the child soldiers fleeing Myanmar into to Thailand that "United Nations has documented" are from the Government or insurgent armed groups. We also regret that the Secretary-General's report cited the findings of Human Rights Watch. The findings of Human Rights Watch are neither scientifically and objectively obtained nor independently substantiated. As one of the members of the Security Council stressed during last year's public meeting, there is a need for verification and checking the validity of the information before it is presented to the Security Council. This has not been done with regard to Myanmar.

We deeply regret that the report of the Secretary-General has created a new list (that is, annex II) which is contrary to the mandate provided by resolution 1460 (2003), in particular paragraph 16 (a).

The Government of Myanmar is deeply committed to the protection of children, including the important issue of child soldiers. In order to cooperate with the United Nations and to provide transparency regarding this issue, the Government has invited the Special Representative of the Secretary-General for Children and Armed Conflict, Mr. Olara A. Otunnu, to visit Myanmar at a mutually convenient date to engage in a meaningful dialogue on this important issue. The Special Representative has indicated his intention to visit Myanmar in early 2004. We now await a concrete proposal from the Special Representative regarding his envisaged visit to Myanmar.

It must be stressed that Myanmar has an established domestic law that stipulates that recruitment into military service is voluntary and that the minimum age for military service is 18 years. We have also issued periodic instructions and instituted a process of scrutiny to enforce the legislation, and action is taken under military law against those who contravene the relevant regulations. In this regard action was taken against 17 military personnel in 2002 and 5 military personnel in 2003.

To further strengthen effective implementation, a committee for the prevention of the recruitment of child soldiers has recently been established. The high-level committee is chaired by the Secretary of the State Peace and Development Council, Lt. General Thein Sein, and its members include the Minister for Foreign Affairs, the Minister for Home Affairs, the Minister for Labour, the Minister for Social Welfare, the Judge Advocate-General and two high ranking military officials from the Ministry of Defence. The committee, at its first meeting on 16 January 2004, discussed ways and means to render strict observance of rules, regulations and directives concerning the prevention of recruitment of children for military service and decided to set up a task force comprising the representatives form relevant line ministries such as the Ministry of Foreign Affairs, the Ministry of Home Affairs and the Ministry of Social Welfare, Relief and Resettlement.

The committee for the prevention of the recruitment of child soldiers will also draw up a plan of action in order to more effectively address the issue. Necessary procedures to be followed for prevention of recruitment of under-age children are also already in place. According to those procedures, scrutinizing and inspection of the new recruitments is being made at three stages, namely (a) at the recruitment stage; (b) at the stage of training of new recruits; and (c) at the stage after entering into the military service. Inspections are being made at all three stages so as to ensure that recruitment is in compliance with the military rules and regulations, including the minimum age requirement. The reports of the finding will be submitted to the task force and to the committee.

Myanmar shares the view of the international community on the need to protect children, particularly in situations of armed conflict. We are also of the view that the promotion of all human rights, including the rights of children, should be conducted through cooperation. Towards that end, the Government of Myanmar has not only invited the Special Representative of the Secretary-General but has also indicated to the Representative of the United Nations Children's Fund (UNICEF) in Myanmar its willingness to cooperate with that agency. In many contexts around the world where it is difficult to determine the exact age of a young person, owing to a lack of identity documentation, minors are recruited into the armed forces. We have therefore formally indicated to the UNICEF Representative in Myanmar our desire to begin a cooperative endeavour with that agency, an enhanced programme on a birth registration/vital registration system, which will also include awareness-raising initiatives. We have also indicated our readiness to discuss a plan with UNICEF with regard to the identification and reintegration of under-age soldiers and the evolvement of a plan of action.

With the attainment of peace and stability in Myanmar, the Government has been able to bring about considerable economic and social development to the country, in particular to the inhabitants of the border areas, which had until recently been under the control of the insurgents. Children in those areas are now provided with the health and education services that are enjoyed by children in other parts of the country. Nationally, we will continue to promote the well-being of children and provide them with a secure and enabling environment in which they can develop their full potential. We are also resolved to join hands with others in the international community to promote the rights of children the world over.

I should be grateful if the present letter could be circulated as a document of the Security Council.

(*Signed*) Kyaw Tint Swe
Permanent Representative